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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,879	01/23/2004	Donald L. Payne	Payne	6007
7590	10/11/2005			
Joseph H. Beumer Suite 1602 D 555 Sparkman Drive Huntsville, AL 35816			EXAMINER TRAN, HANH VAN	
			ART UNIT 3637	PAPER NUMBER

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*He*

**Office Action Summary**

Application No.

10/763,879

Applicant(s)

PAYNE, DONALD L.

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/23/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This is the First Office Action on the Merits from the examiner in charge of this application.

#### ***Claim Objections***

2. Claims 9-11 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 9 and 11 fail to depend on another claim(s).

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 2,508,506 to Fridolph.

Fridolph discloses a decorative cabinet door assembly comprising all the elements recited in the above listed claims including, such as shown in Figs 3-5, a generally rectangular frame 40 including a first frame member, a second frame member disposed across from said first frame member, a pair of opposing side members and an open space defined between said members; a flexible sheet panel 42 covering said open space and removably connected to a selected first member and to a second

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member across from said first member; said panel 42 including at opposing ends thereof means 34 for applying tension force to the panel; and said first and second frame members including means for receiving said panel ends and for retaining the same until removed; wherein said sheet comprises a fabric, and said first frame member comprises an upper member and said second frame member comprises a lower member.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fridolph in view of USP 4,800,947 to Loomis.

Fridolph discloses all the elements as discussed above except for said means for applying tension force comprises an upper loop extending across an upper side of said

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of said panel, a lower loop extending across a lower side of said panel, a first dowel pin disposed in said upper loop, a second dowel pin disposed in said lower loop.

Loomis teaches the an alternate structure of providing an assembly for suspending a flexible sheet material in taut condition comprising an upper loop extending across an upper side of said of said panel, a lower loop extending across a lower side of said panel, a first dowel pin disposed in said upper loop, a second dowel pin disposed in said lower loop in order to facilitate installation and removal of the flexible sheet material. Therefore, it would have been obvious to modify the structure of Fridolph by providing said means for applying tension force comprises an upper loop extending across an upper side of said of said panel, a lower loop extending across a lower side of said panel, a first dowel pin disposed in said upper loop, a second dowel pin disposed in said lower loop in order to facilitate installation and removal of the flexible sheet material, as taught by Loomis, since both teach alternate conventional of providing an assembly for suspending a flexible sheet material in taut condition, used for the same intended purpose, thereby providing structure as claimed.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keller, Paul, Lenner, Claybaugh et al, Miller et al, Santo, Grieg et al, Valero, and Cavaillon all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-

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6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT

October 3, 2005

  
**Hanh V. Tran**  
**Art Unit 3637**